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CHRISTIAN D. ABEL				
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EXAMINER				
FOX, CHARLES A				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,632

Applicant(s)

LAUVDAL, OLAV

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date 20060329
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the suction devices must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The means for telescopically moving the forks must also be shown as they are positively claimed. Each and every limitation in the claims must be shown in the drawings.

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because all of the drawings have black dots throughout and make the drawings hard to duplicate electronically. Further Figures 1 and 3 share reference numerals which is not proper. Many figures have a curved line in them without a reference numeral. This line in Figure 1 ends near reference numeral 8, with no reason given for it being in the drawing. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.

- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification does not conform to current United States practice. Proper headings are not present. A substitute specification is required. The first paragraph should also clearly define the chain of priority for the current application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 1-10, the phrase "or the like" in claim 1 renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). Rewriting the preamble to read " A device for mounting of a lifting vehicle with forks, the device comprising:" will render this rejection moot.

Regarding claim 4 the phrase "or similar devices" renders the claim indefinite. It is not clear what is included or excluded by the given set. The devices must be listed and must have support from the specification. No new matter will be entered.

Regarding claims 4 and 6 the claims are drawn to a combination of parts (device and material moved, and device and fork vehicle) which is indefinite as the preamble of the claims is directed solely to the subcombination of the device that is attached to the

forked vehicle. If limitations other than to the device are to be claimed the preamble should be amended to clearly reflect that the claims are drawn to a complete system and not just the lifting device.

Regarding claim 9 the claim has two distinct limitations which are mutually exclusive to one another. One must be cancelled from the claim.

Regarding claim 10 a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 10 recites the broad recitation mounted rotatably, and the claim also recites preferably hingedly which is the narrower statement of the range/limitation.

Claim 7 is recites the limitation "the voltage, the electromagnet, the negative pressure" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim. No particular securing means is found in claim 1.

Many claims used the phrase "characterized in" which is improper. It is unclear if the limitations are positively recited or not as this can be an inclusive phrase or an exclusive phrase.

Any dependent claim not specifically addressed under this section is rejected based on its dependency on a rejected claim. All art rejections below are made based upon the instant invention as best understood by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,4 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kristensen. Regarding claim 1 Kristensen US 6,024,529 discloses a device for use with a forked lifting vehicle, the device comprising:

a pair of sleeve sections (21,21') making up a carrier mountable onto the forks (30,30') of said vehicle;

a holding part (8) attached to said sleeve sections, said holding part having at least two securing devices (2) for securing an object to said holding part;

a trigger device (20a-f) for operation of said securing devices.

Regarding claim 2 Kristensen also discloses that at least a portion of the object being lifted has a smooth surface.

Regarding claim 4 Kristensen also discloses that the securing devices are capable of creating a negative pressure to hold the item being moved by the device.

Regarding claim 7 Kristensen further disclose that operation of the trigger (20e,f) results in negative pressure being discontinued to the securing devices.

Regarding claim 8 Kristensen also discloses that the trigger is manually operated.

Regarding claim 9 Kristensen further disclose that plate (26) has supporting edges that are permanently mounted to said holding part.

Regarding claim 10 Kristensen also discloses that the holding part is hingedly connected to said carrier such that the holding part may move between a substantially vertical orientation to a substantially horizontal orientation and be held in either orientation as long as needed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kristensen as applied to claim 1 above, and further in view of Friedrich et al. Kristensen teaches the limitations of claim 1 as above, he does not teach the securing

device as being magnets or a that the trigger is a lever mechanism. Friedrich et al. US 6,471,273 teaches a device for lifting sheet metal goods comprising:

a holding part (2) with a plurality of permanent magnets (21) attached thereto;

a trigger mechanism (50) which causes the load and the holding part to be pushed apart a distance which is sufficient to allow the load to disengage with said magnets. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kristensen with a magnetic holding device as taught by Friedrich et al. in order to allow the device to operate without requiring any power source remote from the forked vehicle, thereby making the cost to build the device smaller.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kristensen and Friedrich et al. as applied to claim 5 above, and further in view of Meisner et al. Kristensen and Friedrich teach the limitations of claim 5 as above, they do not teach the fixed length connection for rotating a guide portion of the trigger. Meisner et al. teaches a vehicle comprising:

a frame portion with an associated load holder pivotally attached to said frame;

an extendable member for pivoting said load holder;

a lever arm (22) attached to said load holder about a pivot (46);

a connection member (20) affixed at a first end to said frame and at a second end to said lever arm;

wherein when said extendable member is extended the holder moves away from said frame and the lever arm pivots relative to said holder. It would have been obvious

to one of ordinary skill in the art, at the time of invention to provide the device taught by Kristensen and Friedrich with an automatically operated lever arm as taught by Meisner et al. in order to automatically release the load from the magnet without requiring any electrically operated portions thereby simplifying the operation of the device as well as decreasing assembly costs.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is listed on the attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3652

/Charles A. Fox/

Primary Examiner, Art Unit 3652